IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.8414 of 2024
and W.M.P.Nos.9375 and 9376 of 2024

1. M/s.Balu Spinning Mills Private Limited,
   represented by its Authorised Signatory B.Rajalakshmi

2. B.Roopa
3. B.R.Arun Eashwar
4. B.Rajalakshmi .. Petitioners

Versus

1. Chief Manager,
   Asset Recovery Management Branch,
   Punjab National Bank,
   448-A, Dr.Najappa Road,
   Coimbatore - 641 018.

2. Branch Manager,
   Punjab National Bank,
   Head Office No.7, Bhikaiji Cama Place,
   New Delhi - 110 066.

3. The Reserve Bank of India,

Represented by its Regional Director,
Fort Glacis, No.16, Rajaji Salai,
Chennai - 600 001.

4. TransUnion CIBIL Limited,
(Formerly: Credit Information Bureau (India) Limited),
Represented by its Authorised Representative,
One Indiabulls Centre, Tower 2A, 19th Floor,
Senapati Bapat Marg, Elphinstone Road,
Mumbai - 400 013. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to the impugned order vide Ref:ARMB/505(2)/2017, dated 08.11.2017 declaring the petitioner as a 'Willful Defaulter', quash the same as illegal, incompetent and unconstitutional and consequently direct the respondents to remove the classification of the petitioners as 'Willful Defaulters' with the respondents and other banks, financial institutions and all credit companies.

For Petitioner : Mr.P.H.Aravindh Pandian,
Senior Counsel,
Asstd. by Mr.Salai Varun

For Respondents : Ms.S.R.Sumathy, for RR-1 and 2

: Ms.Madhupreetha Elango, for R4

ORDER

This Writ Petition is filed with a prayer for issue of a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to the impugned order vide Ref.No.ARMB/505(2)/2017, dated 08.11.2017 declaring the petitioner as a willful defaulter and quash the same and for consequential reliefs.

2. The grievance of the petitioner is that the petitioner was granted a term loan facility in the year 2010. While so, on 13.08.2015, a show-cause was noticed to the petitioner to show cause as to why they should not be classified as willful defaulters. The petitioners filed a response on 07.09.2015. Thereafter, by the order, dated 08.11.2017, the petitioners were classified as willful defaulters. The said decision is also communicated to the fourth respondent namely, TransUnion CIBIL Limited and the record is maintained as such till date. Subsequently, in the year 2019, the first respondent bank offered One Time Settlement and on 24.03.2020, the

petitioners paid the entire amount and cleared the loan as per the One Time Settlement offer granted to the petitioners. Thereafter, the petitioners made a representation on 22.02.2024 to revisit and revoke the earlier categorisation of willful defaulters. For the said representation, the first respondent has given a reply on 05.04.2024 stating that they have never reported after 31.03.2020 and the reporting was prior to the same.

3. *Mr.P.H.Aravindh Pandian*, learned Senior Counsel for the petitioner would submit that merely because the bank classified them as willful defaulters by taking into account certain transactions, the said order will not be final forever. In this regard, the learned Counsel would rely upon the judgment of the Hon'ble Supreme Court of India made in ***Orbitz Irrigation Pvt. Ltd. and Ors. Vs. Bank of Baroda and Anr.*** in S.L.P.Civil.No.15751 of 2022, dated 19.09.2022, whereunder, the Hon'ble Supreme Court of India, after considering an identical situation, when the payment is subsequently made and the parties have settled by way of One Time Settlement, the bank

can always revisit its earlier classification as willful defaulter. Therefore, the bank ought to have revisited the classification and even after settling the entire loan, the petitioners are till date remaining as willful defaulters and as a result, the petitioners are put to grave prejudice and undue hardship in their business activities.

4. *Ms.S.R.Sumathy*, the learned Counsel for the bank would submit that it is correct that the representation given by the petitioners is answered by the communication, dated 05.04.2024.

5. *Ms.Madhupreetha Elango*, the learned Counsel for the fourth respondent, TransUnion CIBIL Limited, would submit that it cannot take any unilateral decision with reference to the classification. It is an authority to merely maintain the record that is forwarded by the bank. Unless the bank revisits or reclassifies or sends any communication revoking the same, the petitioners will be shown only as a willful defaulters. The learned

Counsel would also produce relevant communications in this regard.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. When the petitioners were classified as willful defaulters in the year 2017, the petitioners, without challenging the same, concentrated on settling the issue. The petitioners approached the bank and got an offer under One Time Settlement scheme and settled the entire loan amount due and thereafter, the petitioners made the representation, dated 22.02.2024 to revisit the classification. The bank only simply replied by saying that the reporting was prior to a particular date. Even now, the prayer of the petitioners is only to revisit the earlier classification. As rightly pointed out by the learned Senior Counsel, it is relevant to extract the order of the Hon'ble Supreme Court of India in S.L.P.Civil.No.15751 of 2022, dated 19.09.2022, stated supra which reads as follows:-

> "Learned counsel for the petitioners points out that after the High Court's decision, the Bank has entered into One Time Settlement with the petitioners vide letter dated 14-6-2022, and as per the agreed terms and conditions, they have started making payments for which a separate account "NO Lien RO SARB has been opened by the Bank. The petitioners are stated to have deposited a sum of Rs.17 Crores and 55 Thousands so far.
>
> In the light of the above changed circumstances and subsequent events, it appears to us that the petitioners are well within their right to represent the Bank for reconsideration of its earlier decision whereby the petitioners have classified as "Willful defaulters".
>
> We thus deem it appropriate to dispose of the Special Leave Petition at this stage, without expressing any views on the merits, with liberty to the petitioners to make a representation to the Bank to review/reconsider its previous decision whereby they have been categorized as "Willful defaulters" and if any such representation is made by the petitioners, the same shall be considered by the Bank/Regional Stressed Asset Recovery Branch within a period of two weeks from the date of its submission. The petitioners shall be at liberty to avail their legal remedy if the decision to be taken by the Bank is not favourable to them."

In the light of the said order, the respondent Nos.1 and 2 can revisit the entire issue.

8. In view thereof, this Writ Petition is disposed of in the following terms:-

(i) The communication, dated 05.04.2024 given as answer to the representation, dated 22.02.2024, shall stand set aside;

(ii) The respondent Nos.1 and 2 shall consider the representation for revisiting the petitioners' classification as willful defaulters and consider the subsequent events and take a decision in that regard;

(iii) The said exercise shall be carried out within a period of two weeks from the date of receipt/production of a web-copy of this order without waiting for a certified copy of this order;

(iv) The decision, if any taken, shall be communicated to the fourth respondent within one week therefrom;

(v) Upon receipt of the fresh communication from the respondent Nos.1 and 2, the fourth respondent shall act accordingly within a period of two weeks from the date of receipt of the communication therefrom;

(vi) There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.02.2025

Neutral Citation : no

grs

D.BHARATHA CHAKRAVARTHY, J.

grs

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